

## RESPONSE

The examiner states in the Office Action Summary that claims numbered 102-107, 110-112, 114, 115 and 121-132 are pending in the application; claims numbered 102-107, 110-112, 114, 115 and 121-132 are rejected. Applicant respectfully notes that claim number 123 was cancelled in the response filed August 13, 2003. Therefore, claims numbered 102-107, 110-112, 114-115, 121-122, and 124-132 are pending in the present application.

Applicant has responded to the rejections accordingly.

(1) The examiner has rejected claims numbered 102-107, 110-112, 114, 115 and 121-132 under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The examiner further states the proviso added to claim 1 to overcome the 35 U.S.C. §102/103 rejection from the previous Office Action lacks description. The examiner further states negative limitations or an exclusionary proviso must have basis in the original disclosure.

Applicant respectfully traverses this rejection. Support for the aforementioned proviso appears in the specification as originally filed on page 36, lines 16-17.


Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. §112, second paragraph.

(2) The examiner has rejected claims numbered 102-105 under 35 U.S.C. §102(b) as being anticipated by Stocker et al. Chemical Abstracts 112:216653, in particular compound RN 126036-49-5. Applicant respectfully traverses this rejection. Claim number 102 of the present invention has  $q = 1$ ;  $R^2 = H$ ; and  $R^1 = H$  or a functional group that can be converted to H *in vivo*, therefore the position of the double bond in the imidazo ring is fixed. As illustrated by the following comparison of the Stocker compound with Formula 1 of the present invention, the Stocker compound has the nitrogen of the pyridine ring in the 5 position and compounds of Formula 1 have the nitrogen of the pyridine ring in the 6 position.

Attorney Docket No. 5390.200-US  
Dorwald et al.  
Serial No. 09/548,081 Filed April 12, 2000  
Express Mail Label No. EV 409530721 US

The examiner is hereby invited to contact the undersigned by telephone if there are any questions concerning this amendment or application. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,



Date: April 30, 2004

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